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ABSTRACT

Title I of the Elementary and Secondary Education Act of 1965 (ESEA) supports programs in schools attended by significant numbers of children from low income families who, along with other students, may need this extra help to improve their performance. As a result of recent changes in the law, more parents will now be involved in the planning, development, operation, and evaluation of Title I projects. This document presents the new legal requirements for parent involvement in Title I projects. It begins by describing what Title I now says about parent involvement and presents the new Federal law which will affect the Parent Advisory Council (PAC) membership selection procedures. This law is called the Family Educational Rights and Privacy Act, commonly named the Buckley Amendment. The Buckley Amendment may prohibit certain procedures that have been used in the past to recruit Title I PAC members. Reports indicate that many practical problems, such as the lack of guidelines for local school districts to follow to establish parent participation, have developed since the Buckley Amendment became law. It is stated that this amendment has created some difficulties in complying with the new parent involvement provisions of Title I, but that ways to obtain consent and identify Title I parents for PAC membership can and should be devised by school systems. (Author/AM)

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NEW LEGAL REQUIREMENTS FOR PARENT INVOLVEMENT IN TITLE I PROJECTS

Title I of the Elementary and Secondary Education Act of 1965 (ESEA) supports programs in schools attended by significant numbers of children from low-income families who, along with other students, may need this extra help to improve their performance.1/ As a result of recent changes in the law, more parents will now be involved in the planning, development, operation and evaluation of Title I projects

What Title I Now Says About Parent Involvement

The idea of parental involvement has been expanding since the original passage of Title I in 1965. In 1966, Congress required local school districts to consult community action agencies established by the Economic Opportunity Act about the planning, development and operation of Title I programs.2/ But school districts were not legally required to involve parents of Title I students until 1971. That year, after determining that parental participation would increase the effectiveness of the Title I program, the Commissioner of Education ordered each school system with a Title I program to establish an advisory council with Title I parents on it.3/

In 1974, Congress made a number of changes in federal education laws, including strengthening the parent involvement provisions of Title I. School districts with Title I grants must now establish a Parent Advisory Council (PAC) at each target school to be served by a Title I project, as well as for the entire school district.4/ Title I school PAC members are selected by all parents living in each school's attendance area.5/ The law does not require any particular process, so selection methods are not limited to elections.

No matter how many parents serve on each PAC (which will be determined by PAC by-laws, Congress decided that a majority (more than half) of these council members must be parents of children actually receiving Title I assistance.6/ (The difficulties related to identifying parents eligible for Title I PAC participation are discussed along with the Buckley Amendment later in this paper.)

Even though they function as an advisory group, the law requires that PACs must have meaningful input in the planning, operation, and evaluation of Title I programs and projects.7/ To encourage the free flow of information to PACs and to ensure their active participation, the law guarantees PACs the right to have "access to appropriate information concerning such programs and projects,"8/ such as reports, past and present evaluations or applications for Title I programs, regulations, guidelines and related criteria. Local school district officials must meet with PACs to explain the program and must permit PAC participation in such matters as identifying the needs of the children to receive Title I services, setting priorities among those needs, choosing the method for targeting Title I schools, etc.

As part of its administrative duties, the U.S. Office of Education (OE) must inform state and local officials of the federal requirements for the Title I program9/ by issuing written explanations of the law, called "regulations" and "guidelines,"

which states are bound to follow.10/ Each local school district must provide its PAC with a copy of these regulations and guidelines.11/ New regulations covering the 1974 amendments to Title I were proposed in March, 1975, but OE has not yet released a final version. However, local school districts must still comply with the new legal requirements for PAC membership and selection.

The Buckley Amendment and PAC Membership Selection

The Education Amendments of 1974 included another new federal law which will affect PAC membership selection procedures. This law is called the Family Educational Rights and Privacy Act,12/ but it is also commonly called the "Buckley Amendment," named after Senator James L. Buckley of New York, who originally sponsored this legislation. The law bars use of federal funds by any school system that has a "policy or practice of permitting the release of students' educational records" or other personal information about students, without the written consent of their parents,13/ except to "other school officals" whom the local school district determines have "legitimate educational interests."14/

The law allows school districts to give out what it calls "directory" information about students, but this includes only such facts as: the student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of school attendance and awards received, and the most recent school or school district attended by the student.15/ (These types of facts are usually released by schools to newspapers writing stories about sporting events, school plays and other similar extra-curricular activities.)

The Buckley Amendment may prohibit certain procedures that have been used in the past to recruit Title I PAC members. For example, the Title I law now requires that a majority of the members of each PAC must be parents of children receiving Title I services.16/ In order to qualify for Title I services, a child must live within the attendance area of a school served by a Title I project, and the child's performance must be rated below grade level expectation.17/ If a school district attempted to identify eligible PAC members by putting together a list of children receiving Title I assistance, the list would automatically identify each child's level of performance, and could not be made public or given to persons other than school district officials without the written consent of each child's parent.

For this reason, the proposed Title I regulations issued last March would have directed local school districts to "establish appropriate procedures whereby parents of children who participate in the current year's program may, with their consent, be identified so that they may be considered for membership" on a PAC.18/ Since OE has not issued these regulations in final form, local school districts have no guidelines to follow at this time.

Reports indicate that many practical problems similar to the one just described have developed since the Buckley Amendment became law. According to one section of the law, the Secretary of HEW was instructed to develop regulations explaining just what information-gathering activities could legally be conducted.19/ These regulations have not been released, but when issued they may broaden the definition of "directory information" that can be published without individual consent.20/ Until the final rules do appear, no one can forecast with certainty what procedures are appropriate. In the meantime, local school districts and PACs must proceed cautiously.

This does not mean that school and district-wide PACs having Title I parent majorities cannot or should not be formed now. The Buckley Amendment allows schools to release personal information about students, if the written consent of their parents is obtained.21/ Schools could distribute consent notices to the parents of students receiving Title I services, asking them for permission to release their names if they want to be considered for membership as part of the PAC majority. School districts could also send or mail a notice to all parents in a Title I project school attendance area, announcing that parents whose children were actually participating in Title I and who wanted to be considered for PAC membership should identify themselves by sending in a written consent, or by attending a special meeting. PAC members may talk to all parents in these attendance areas, asking that those interested in joining the PACs sign the written consent forms. Title I parents could be invited by school officials to a meeting about the program, and then asked to sign waivers and to participate in PACs. Teachers of Title I students could explain the purposes of PACs and the requirement of written consent at conference sessions and parent-teacher visits. Local radio or television stations that broadcast information about community events could be requested to read a copy of a public service announcement about PAC selection and the need for waivers. Local newspapers can be asked to run stories about the program and the need for written consent in order to select PAC members. Because no child's educational status is publicly revealed, no violation of the Buckley Amendment would occur under any of these approaches.

Other sections of the Buckley Amendment carving out exceptions to the ban on information-gathering might be legally interpreted to authorize PAC recruitment activities. For example, the amendment does permit school officials to release more facts about students, in addition to "directory information," to "other school officials" whom the local district determines have "legitimate educational interests."22/ Parent coordinators employed under the Title I budget (or even present PAC members themselves) could be classified as school officials with a legitimate interest in getting a list of Title I parents.

The Buckley Amendment thus creates some difficulties in complying with the new parent involvement provisions of Title I, but ways to obtain consent and identify Title I parents for PAC membership can be devised by school systems. The Federal Education Project is interested in improving federally funded education programs to help make them more effective. Assisting parents and local groups like PACs in their efforts to participate in the Title I program activities is an important means of assuring compliance with federal program requirements in every local school district. If a local district will not establish PACs with Title I parent majorities, you may want to contact our office for assistance. You may also want to discuss the problem with a lawyer at the nearest Legal Services Program office. Take this paper with you. The footnotes at the end will help lawyers and school officials locate the exact provisions of federal laws governing parent participation in Title I.

FOOTNOTES

1/ 20 U.S.C. § 241(a); P.L. 89-10, § 101, as amended.

2/ S. Rep. No. 146 (Labor and Public Welfare Committee), April 6, 1965 (accompanying H.R. 2362), 1965 U.S. Code Cong. & Adm. News, at 1456. See also, § 111(f), P.L. 89-750, amending Title I (November 3, 1966).

3/ 20 U.S.C. § 1231d, P.L. 92-318, § 301(a)(1), as amended, 45 C.F.R. § 116a.17(o).

4/ 20 U.S.C. § 241e(a)(14); P.L. 93-380, § 101(a)(5)(D).

5/ 20 U.S.C. § 241e(a)(14)(B); P.L. 93-380, § 101(a)(5)(D).

6/ 20 U.S.C. § 241e(a)(14)(A); P.L. 93-380, § 101(a)(5)(D).

7/ 20 U.S.C. § 241e(a)(14)(C); P.L. 93-380, § 101(a)(5)(D).

8/ 20 U.S.C. § 241e(a)(14)(D); P.L. 93-380, § 101(a)(5)(D).

9/ 20 U.S.C. § 1221e-3; P.L. 93-380, § 502(a)(1); see also, 20 U.S.C. § 1232; P.L. 93-380, § 509(a).

10/ 20 U.S.C. § 1232(c); P.L. 93-380, § 509(a).

11/ 45 C.F.R. § 116.17(o)(2)(ii) and proposed § 116a.25(g)(1) (40 Fed. Reg. 11472-11494).

12/ 20 U.S.C. § 1232g; P.L. 93-380, § 513(a), as amended.

13/ 20 U.S.C. § 1232g(b)(1); P.L. 93-380, § 513(a), as amended.

14/ 20 U.S.C. § 1232g(b)(1)(A); P.L. 93-380, § 513(a), as amended.

15/ 20 U.S.C. § 1232g(a)(5)(A); P.L. 93-380, § 513(a), as amended.

16/ 20 U.S.C. § 241e(a)(14)(A); P.L. 93-380, § 101(a)(5)(D).

17/ 20 U.S.C. § 241e(a)(1)(A); P.L. 93-380, § 101(a)(5)(A).

18/ Proposed § 116a.25(c), 40 Fed. Reg. 11472-11494.

19/ 20 U.S.C. § 1232g(c); P.L. 93-380, § 513(a), as amended.

20/ E. Fiske, "Year Later, Access to Students' Records Poses Burdens," New York Times, February 1, 1976, p. 33.

21/ 20 U.S.C. § 1232g(b)(1); P.L. 93-380, § 513(a), as amended.

22/ 20 U.S.C. § 1232g(b)(1)(A); P.L. 93-380, § 513(a), as amended.